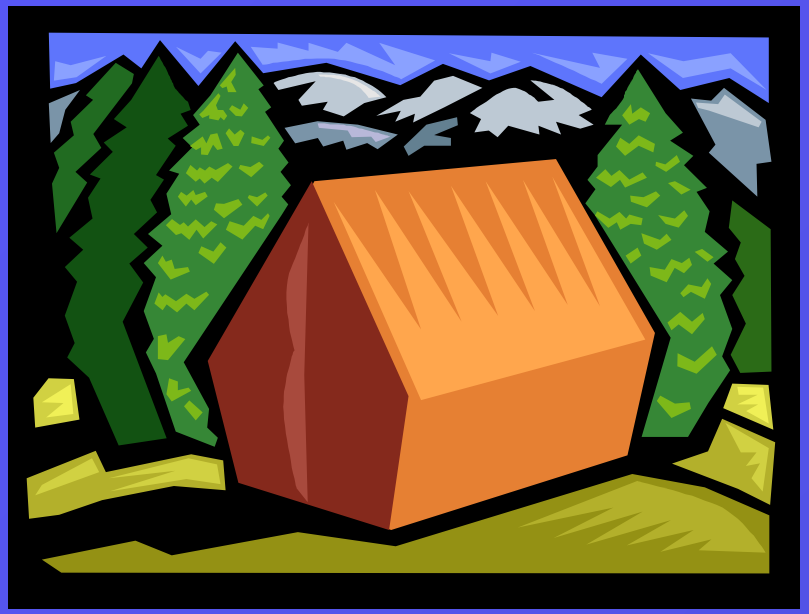
Outside Activities

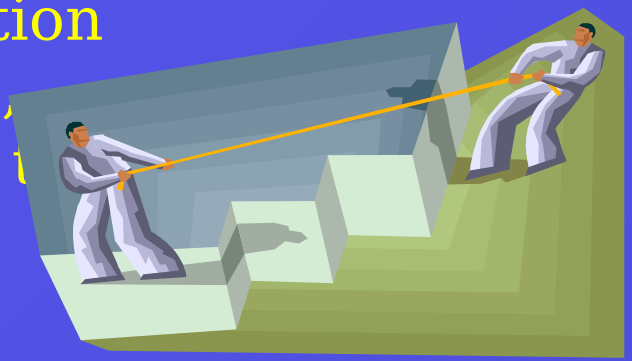


Presentation Sum

- Avoiding Conflicts of Int
- Preventing Misuse of Government Resources
- Guarding Against Abus Official Position
- Rules Maintaining an Effective Workforce

Conflicts of Interest

- Basic Rule - *5 C.F.R. § 2635.802*
  - Employees shall not engage in outside activities that conflict with official duties
  - Conflicts exist where:
    - prohibited by statute or regulation
    - would require disqualification from matters so critical, materially impairs ability t perform duties of position



Moonlighting

- SF-278/OGE 450 Filers and Prohibited Sources
  - Advance written approval by "Agency Designee" required
  - Terminal Leave issue

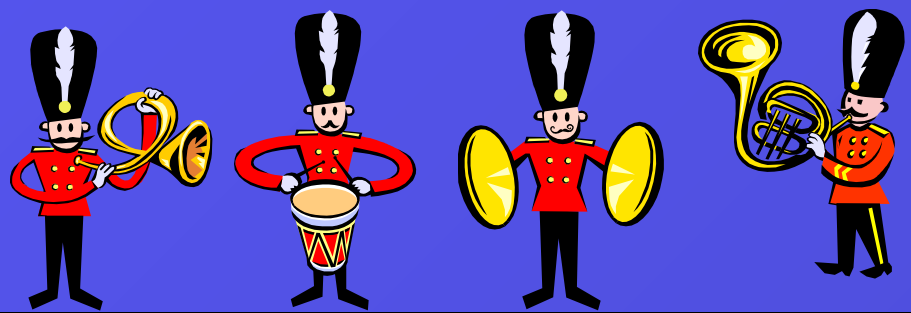
- Commands may impose requirement for prior reporting of outside employment
  - May prohibit if detracts from readiness or poses a security risk JER 2-303

Moonlighting in Government

- Civil Office Statute - 10 USC 973(b)
  - Prohibits military officers from holding Federal, State, or local office
  - DOD Directive 1344.10
- Extra Pay for Extra Services?
  - 5 U.S.C. § 5536 - OK if two distinct appointments
  - 5 U.S.C. § 5533 - 40 hour cap, but some exceptions
  - Terminal leave exception at 5 U.S.C. § 5534a

Moonlighting in the Private Sector

- Statutory restrictions on military bands and musicians competing with local civilian musicians 10 USC 3634, 6223, 8634
- Overseas - Check bilateral basing agreements



Moonlighting as an Expert Witness

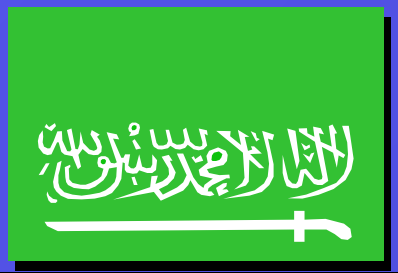
- *5 C.F.R. § 2635.805*
  - ✔Where in Federal Court or before a Federal Agency; *and*
  - ✔U.S. is a party or has direct & substantial interest; *then*
  - →May only be an expert for the U
  - – DAEO may authorize exceptio

Income Limitations on "Covered Noncareer Employees"

- *5 C.F.R. §2636.301,* JER Chapter 3
  - ❶ Do you have a "covered noncareer employee"?
  - What is the type of income?
    - Any Exclusions?
    - Related to a profession involving fiduciary relationships?
    - For service as officer of a board?
    - Teaching?
  - What is the amount of income?

Moonlighting - Misc. Stuff

- Gift Exception - 5 C.F.R. §2635.204(e)
  - Not offered or enhanced because of official position
- FAR Restrictions
- Representational Restrictions
  - 18 U.S.C. §§ 203 & 205
- Foreign Employment Restrictions
  - 18 U.S.C. §219



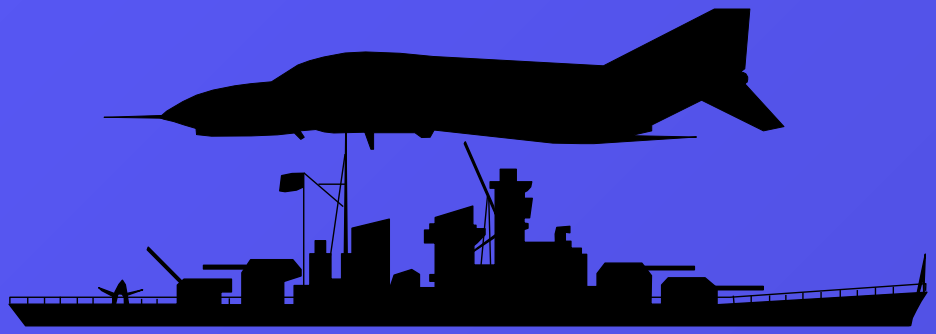
Miscellaneous Restrictions

- May not act as agent for foreign principals registered under Foreign Agents Registration Act or lobbyists registered under Lobbying Disclosure Act

The Hoffman Group can help promote your issues on Capitol Hill, before the Executive Branch, and at the state and local levels.

Misuse of Resources

- General Rule (JER 3-305): in connection with private, personal activities, employees may not use:
  - Official Time
  - Government People
  - Government Property



Inside Information

- *5 C.F.R. §2635.703*
  - May not use or allow use of "nonpub… information" to further private interests

- Assignment of Reservists - JER 5-408
  - Commanders have affirmative obligation to guard against assigning duties in which they obtain information and gain unfair advantage

Misuse of Government Position

- Honoraria Ban

Yes, it’s Dead!

Misuse of Government Position

- Teaching, Speaking, or Writing Activities *5 U.S.C. § 2635.807*
  - **No compensation** if "related to official duties"
    - Part of official duty
    - Invitation extended because of position or from a person whose interests are affected
    - Uses nonpublic information
    - Deals with matter to which employee is assigned now or within last 1-year
    - On going policy, program or operation

Misuse of Government Position

- Teaching, Speaking, or Writing Activities *5 U.S.C. § 2635.807*
  - Some Exceptions
    - Teaching certain courses
    - *Sanjour* decision
  - Reference to Official Position and Disclaimers
  - Policy & Security Reviews

Misuse of Government Position

- Private Fundraising - No:
  - Soliciting subordinates or prohibited sources
  - Allowing use of position/ authority to further the fundraising effort

- Official Endorsement (real or implied)

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UNITED STATES NAVY SEALS
• The Ultimate Illumination System Glows Continuously For 25 Years
• Worn By The Navy Seals
• 100 Times Brighter Than Conventional Luminous Watches
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• Unidirectional Bezel
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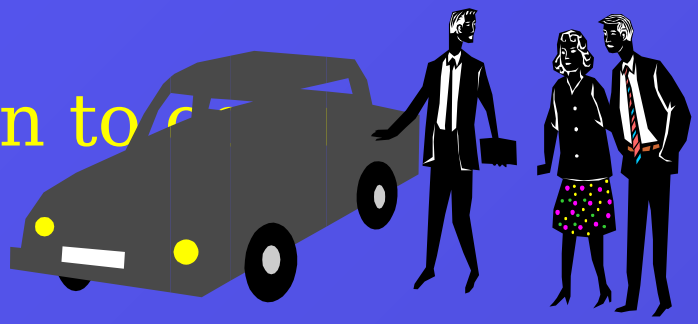
• 10 Year Warranty On Illumination
• Nylon Velcro Strap With Compass Included

"I wore the Luminox Dive Watch during physical training, running the obstacle course, on run-swim-runs, parachute jumps, firing heavy weapons, and on numerous operations...the watch exceeded all expectations." - Chief John A. Engraff, U.S. Navy SEAL Team Five

Misuse of Government Position

- Solicited Sales *JER 5-409*
  - General prohibition on soliciting subordinates
  - Requires a solicitation to
  - Activity of a Spouse



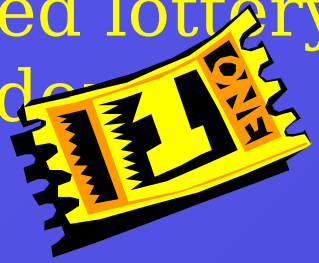
- Use of Military Title
  Retirees

Misuse of Government Position

- Retirees/Reservists
  - May use military titles in connection with commercial enterprises if:
    - not on active duty
    - indicate retired or inactive status
    - no appearance of DoD sponsorship
    - no discredit to DoD

Gambling

- Exceptions
  - Employee/Dependent groups with SECNAV approval - e.g., N/MCRS Annual Fund Drive
  - Private wagers in private quarte
    - poker/sports pools
    - subordinates - Articles 133/134?
  - Law enforcement
  - Purchase of state-licensed lottery tickets from blind vend



Questions?